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SCOTT ELLIOTT

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April 17, 2018

**VIA E FILING**

Jocelyn D. Boyd, Esquire  
Chief Clerk and Administrator  
South Carolina Public Service Commission  
101 Executive Center Drive  
Columbia, SC 29210

RE: Midlands Utility, Inc./Raintree Acres Wastewater Treatment Facility  
ND-2018-\_\_-S

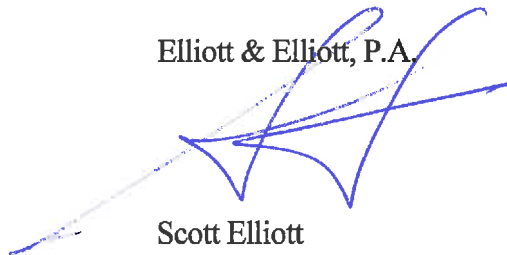
Dear Ms. Boyd:

Enclosed please find for filing the following letter from the South Carolina Department of Health and Environmental Control ("DHEC") to Midlands Utility, Inc. ("Midlands") acknowledging the completion of the requirements of the Raintree Acres Subdivision WWTF Amendment to Consent Order No. 03-043-W.

If you have any questions, or if I may provide you with any additional information, please do not hesitate to contact me.

Sincerely,

Elliott & Elliott, P.A.



Scott Elliott

SE/lbk  
Enclosures



Catherine B. Templeton, Director

*Promoting and protecting the health of the public and the environment*

October 21, 2014

Mr. Keith G. Parnell, P.E.  
President  
Midlands Utility, Inc.  
Post Office Box 887  
Lexington, S.C. 29072

Re: **Amendment to Consent Order 03-043-W**  
Raintree Acres WWTF  
NPDES Permit SC0039055  
Richland County

Dear Mr. Parnell:

Midlands Utility, Inc. (Midlands), entered into the Amendment to Consent Order 03-043-W on October 30, 2013, to address the matter pertaining to the Raintree Acres Wastewater Treatment Facility as described therein. Midlands agreed to complete closeout of the polishing pond in compliance with the conditions of Wastewater Construction Permit 31404-WW and in accordance with a compliance schedule contained in the Order.

On October 10, 2014, you notified the Department of completion of the closeout and requested a final inspection. On October 15, 2014, Department staff issued an "Approval to Place into Operation."

There are no further Order requirements outstanding, therefore, Amendment to Consent Order 03-043-W and enforcement file is considered to be closed, effective October 21, 2014.

If you have any questions, please contact me at (803) 898-4247 or by e-mail at: [kreckewr@dhec.sc.gov](mailto:kreckewr@dhec.sc.gov).

Sincerely,

William R. Kreckler  
Enforcement Project Manager  
Water Pollution Control Division  
Bureau of Water

cc: Jaime Teraoka, Water Pollution Control Division/Compliance  
Harry Mathis, Director, Midlands Region EQC Office – Columbia



Catherine B. Templeton, Director

*Promoting and protecting the health of the public and the environment*

October 31, 2013

**SENT VIA E-MAIL AND REGULAR USPS MAIL**

Mr. Keith G. Parnell, P.E.  
President  
Midlands Utility, Inc.  
Post Office Box 887  
Lexington, S.C. 29072

Re: **Amendment to Consent Order 03-043-W**  
Midlands Utility, Inc./Raintree Acres Wastewater Treatment Facility  
NPDES Permits #SC0039055  
Richland County

Dear Mr. Parnell:

Enclosed is the **Amendment to Consent Order 03-043-W** into which you entered with the Department to address the matters of enforcement concern described therein. The Order is considered executed on **October 30, 2013**. Please note the requirements for injunctive relief starting on page 6 to which you agreed to adhere.

Please contact me if you have any questions. My number is (803) 898-4247, or by email at: [bill.krecker@dhec.sc.gov](mailto:bill.krecker@dhec.sc.gov).

Sincerely,

William R. Krecker  
Project Manager  
Water Pollution Control Division/Enforcement  
Bureau of Water

Enclosure

cc: Melanie Hindman, BOW/WPC/Compliance Section  
Harry Mathis, Director, Midlands EQC Region Office - Columbia

**THE STATE OF SOUTH CAROLINA  
BEFORE THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**

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**IN RE: MIDLANDS UTILITY, INC.  
RAINTREE ACRES SUBDIVISION WWTF  
RICHLAND COUNTY**

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**AMENDMENT TO CONSENT ORDER  
03-043-W**

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Midlands Utility, Inc. (Respondent) owns and is responsible for the proper operation and maintenance of a wastewater treatment facility (WWTF) serving the residents in and contiguous to the Raintree Acres subdivision located in Richland County, South Carolina.

The Respondent entered into Consent Order 03-043-W, executed April 7, 2003 (Order), to address multiple violations of permitted effluent discharge limitations and its failure to properly operate and maintain the WWTF in accordance with its National Pollutant Discharge Elimination System (NPDES) Permit, issued by the S.C. Department of Health and Environmental Control (Department). The Respondent failed to fully comply with the construction schedule (schedule) contained in the Order to facilitate an upgrade of the WWTF as an alternative to entering into a contract to interconnect with the Richland County/Broad River Regional wastewater treatment plant (Richland County). Moreover, certain wastewater treatment components installed were outside the scope of the construction plans, specifications, design calculations and the construction permit application and Wastewater Construction Permit No. 31404-WW (WCP), and were un-approvable.

Based upon discussions with agents for the Respondent on February 6, 2013, and in subsequent meetings, the parties have agreed to the issuance of this Order, as amended, to include the following Findings of Fact and Conclusions of Law.

## FINDINGS OF FACT

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1. The Respondent owns and is responsible for the proper operation and maintenance of a WWTF serving the residents in and contiguous to the Raintree Acres subdivision located at Beachwood Lane off Hollingshed Road about six miles north of Interstate 20 in Richland County, South Carolina.
2. On April 7, 2003, the Respondent entered into an Order with the Department to address multiple permitted effluent limit violations and in settlement of earlier judicial actions. The Order referenced the Clean Water Act, Area-wide 208 Plan designating the WWTF to be eliminated by interconnection to Richland County. The Order allowed the Respondent to upgrade the WWTF in lieu of connecting to Richland County, as an alternative, in the event the contract to connect is denied by the S.C. Public Service Commission (PSC).
3. On July 3, 2003, the Respondent filed an application with the PSC for approval of a pending contract for bulk sewerage service for wastewater from the WWTF to Richland County.
4. On August 1, 2003, the Department issued NPDES Permit SC0039055, authorizing the Respondent to discharge treated wastewater to the Broad River in accordance with effluent limitations, monitoring requirements and other permit conditions set forth therein.
5. An "Order Disapproving Contract," Docket No. 2003-218-S – Order No. 2004-203, was issued by the PSC on April 16, 2004, denying the contract between the Respondent and Richland County.
6. The Order contained a schedule for upgrade construction which was implemented due

- to the PSC denying the contract to interconnect with Richland County and eliminate its discharge. A Preliminary Engineering Report (PER) was approved by the Department with an additional six (6) months allowed for construction to meet Reliability Classification I requirements, as appropriate.
7. On June 16, 2004, the Respondent submitted a PER to replace and upgrade the WWTF in order to meet all effluent limitations and conditions of the NPDES Permit. The PER received Department approval on February 3, 2005.
  8. On April 5, 2005, the Department received from the Respondent plans, specifications and an application for a permit to construct the upgrade of the WWTF.
  9. On July 25, 2005, a WCP was issued for an upgrade to the existing WWTF "in accordance with the construction plans, specifications design calculations and the Construction Permit Application signed by Charles Parnell, Registered Professional Engineer, S.C. Registration Number: 9406."
  9. The Respondent notified the Department by letter dated April 12, 2007, that construction commenced on December 9, 2006.
  10. Department staff received a letter from the Respondent dated June 6, 2007, that construction was nearing completion with facility startup scheduled for June 12, 2007.
  11. A letter dated, June 25, 2007, from the Respondent to Department staff reported that wastewater from the newly constructed wastewater treatment components were to be discharged to the polishing pond and approval to discharge raw wastewater to the new facility was requested.
  12. On July 24, 2007, the Respondent submitted a letter to the Department requesting approval to operate specified wastewater treatment components.

13. On July 27, 2007, Department staff conducted a site visit of the upgraded WWTF.
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There were construction deficiencies and deviations from approved plans and specifications observed which precluded approval to operate.

14. The NPDES Permit expired on September 30, 2007, but an application dated January 18, 2007, for renewal was received by the Department. An application was resubmitted on November 13, 2009.
15. Numerous email messages and verbal communication subsequent to the July 2007 inspection attempted to resolve the unapproved changes made to the WCP. On June 17, 2010, the Respondent submitted a request for modification of the WCP and approval of record drawings. There existed material concerns by the Department relating to an above ground 20,000 gallon "Modutank" installed as a post-equalization basin and other construction activity that was not part of plans and specifications originally approved and permitted.
16. Department Compliance Evaluation Inspections (CEI) conducted on July 14, 2010, and June 27, 2012, rated the WWTF as "Noncompliant" for failing to obtain approval to construct and place into operation specific wastewater treatment components.
17. On October 15, 2012, Department staff notified the Respondent that specific wastewater treatment components installed as part of the WWTF upgrade failed to comply with Class I Reliability Standards, and could not be given approval to place into operation. Multiple items were listed requiring construction changes which would require Department approval.
18. On February 6, 2013, Mr. Keith G. Parnell, President for the Respondent, and Mr. Ken Parnell, engineer consultant, met with Department permitting staff and other

- Department staff to discuss the content of the October 15, 2012 letter and corrective actions needed to resolve the issues pertaining to the construction non-approval status. The issuance of a consent order was discussed.
19. On February 13, 2013, the WCP was modified replacing the "Modutank" with an on-grade reinforced concrete post-EQ tank.
  20. A proposed consent order was issued to the Respondent on April 17, 2013. The Respondent requested, via letter dated April 22, 2013, a conference to discuss the Department's enforcement concerns.
  21. On May 14, 2013, Department staff held an enforcement conference with agents and representatives for the Respondent to discuss the findings above. The issuance of a revised consent order containing activities and a schedule to facilitate completion of the WWTF upgrade and final closure with stipulated penalties was discussed.
  22. On May 17, 2013, the WCP was modified to reconfigure the flow control of the dual in-line Ultraviolet disinfection (UV) units.
  23. On May 31, 2013, the Department received the final closure plan for the polishing pond (pond no. 2) and other wastewater treatment components and appurtenances not part of the WWTF upgrade. The Respondent had requested the Department to approve use of the aeration pond (pond no. 1) for flow equalization.
  24. On July 10, 2013, the parties met to discuss the closure plan and approval of the anaerobic solids tank bypass line.
  25. On July 12, 2013, the WCP was modified to allow for the installation of the by-pass piping around the sludge holding basin from the influent force main directly into the surge basin of the Sequential Batch Reactor system.

26. On July 29, 2013, "Partial Approval(s) to Place into Operation" were issued for the above ground Equalization Basin and the modification of the existing UV units.
27. On September 27, 2013, the plans for sludge removal and closeout of the polishing pond had been approved. Disposition of the aeration pond is being evaluated. This order, as amended, shall serve to guide and facilitate the final closure of these components, as approved.

### CONCLUSIONS OF LAW

Based upon the above Findings of Fact, the Department reaches the following Conclusions of Law:

The Respondent is subject to civil penalties pursuant to the Pollution Control Act, S.C. Code Ann. §48-1-330 (2008) for failure to comply with the compliance schedule contained in the Order for upgrade of the WWTF within three hundred sixty (360) days from the start of construction.

**NOW, THEREFORE, IT IS ORDERED, CONSENTED TO AND AGREED,** pursuant to the Pollution Control Act, S.C. Code Ann. §48-1-50 (2008) and S.C. Code Ann. §48-1-100 (2008), that the Respondent shall:

Comply with the Department-approved polishing pond sludge removal and closeout plans in accordance with the following schedule:

- a) On or before December 16, 2013, purchase and install the approved Geotube® Dewatering devices;
- b) Within thirty (30) days following the completion of installation, begin pumping sludge into the Geotubes® and notify the Department Midlands EQC Region – Columbia Office staff of the start of this activity;

c) Within ninety (90) days after the start of sludge pumping into the Geotubes® submit a progress report to the Department;

d) On or before November 1, 2014, complete the sludge collection and removal process; properly dispose of all sludge removed per Department approval; submit written certification to the Department verifying that the project had been completed in accordance with the approved CP and request a final inspection.

**THE PARTIES FURTHER STIPULATE** that the Respondent, should it fail to comply with the provisions hereby ordered, shall pay a stipulated civil penalty in the amount of two thousand dollars (\$2,000.00 plus one thousand dollars (\$1,000.00) per month for each subsequent month the Respondent fails to meet schedule dates, unless the schedule date has been extended by mutual agreement through further amendment to this Consent Order. All penalties due under this paragraph shall be made payable to the South Carolina Department of Health and Environmental Control within thirty (30) days of notification by the Department.

All penalties, including those due and payable in the event of the Respondent's failure to comply with this Order, shall be in addition to any other remedies or sanctions which may be available to the Department by reason of the Respondent's failure to comply with the requirements of this Order.

**THEREFORE IT IS FURTHER AGREED** that if any event occurs which causes or may cause a delay in meeting any of the above scheduled dates for completion of any specified activity, the Respondent shall notify the Department in writing at least one (1) week before the scheduled date, describing in detail the anticipated length of the delay, the precise cause or causes of delay, if ascertainable, the measures taken or to be taken to prevent or minimize the delay, and the timetable by which those measures will be implemented.

The Department shall provide written notice as soon as practicable that a specified extension of time has been granted or that no extension has been granted. An extension shall be granted for any scheduled activity delayed by an event of *force majeure*, which shall mean the event arising from causes beyond the control of the Respondent that causes a delay in or prevents the performance of any conditions of any of the conditions under this Consent Order including but not limited to: a) acts of God, fire, war, insurrection, civil disturbance, explosion; b) adverse weather condition that could not be reasonably anticipated causing unusual delay in transportation and/or field work activities; c) restraint by court order of public authority; d) inability to obtain, after exercise of reasonable diligence and timely submittal of all applicable applications, any necessary authorizations, approvals, permits, or licenses due to actions or inactions of any governmental agency or authority; and e) delays caused by compliance with applicable statutes or regulations governing contracting, procurement or acquisition procedures, despite the exercise of reasonable diligence by the Respondent.

Events which are not *force majeure* include by example, but are not limited to, unanticipated or increased costs of performance, changed economic circumstances, normal precipitation events; or any person's failure to exercise due diligence in obtaining governmental permits or fulfilling contractual duties. Such determination, after notice, will be made in the sole discretion of the Department. Any extensions shall be incorporated by reference as an enforceable part of this Consent Order and thereafter be referred to as an attachment to the Consent Order.


**THIS CONSENT ORDER, AS AMENDED,** serves to REPLACE and RESCIND Consent Order 03-043-W, executed April 7, 2003.

**IT IS FURTHER ORDERED AND AGREED** that failure to comply with any provision of this Order shall be grounds for further enforcement action pursuant to the Pollution Control Act, S.C. Code Ann. § 48-1-330 (2008), which may include the assessment of additional civil penalties.


**IT IS FURTHER ORDERED AND AGREED** that this Consent Order, as amended, governs only the civil liability to the Department for civil sanctions arising from the matters set forth herein and constitutes the entire agreement between the Department and Midlands Utility, Inc., with respect to the resolution and settlement of these civil matters. The parties are not relying upon any representations, promises, understandings or agreements except as expressly set forth within this Order.

**[Signature Page Follows]**

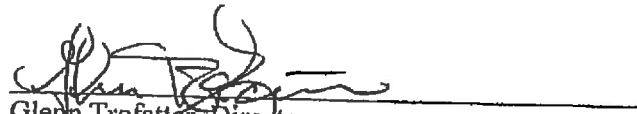
FOR THE SOUTH CAROLINA DEPARTMENT  
OF HEALTH AND ENVIRONMENTAL CONTROL

  
Elizabeth A. Dieck  
Director of Environmental Affairs

Date: 10/30/13

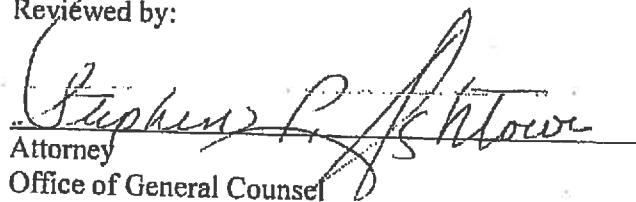
  
David E. Wilson, Jr., P.E.  
Bureau Chief  
Bureau of Water

Date: 10-17-13

  
Glenn Trofatter, Director  
Water Pollution Control Division  
Bureau of Water

Date: Oct 10 2013


Reviewed by:

  
Attorney  
Office of General Counsel

Date: 10/28/13

WE CONSENT:

MIDLANDS UTILITY, INC.

  
Keith G. Parnell, P.E.  
President

Date: 10/8/13